

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

BNJ LEASING, INC., and
MRB ENTERPRISE, INC.,

Plaintiffs,

v.

PORTABULL FUEL SERVICE, LLC,

Defendant.

Case No. 2:19-cv-00156-KS-MTP

**DEFENDANT PORTABULL FUEL SERVICE, LLC'S
MOTION FOR SUMMARY JUDGMENT AND FOR DAUBERT RELIEF**

COMES NOW, Defendant Portabull Fuel Service, LLC (“Portabull”), by and through its undersigned attorneys of record, and files this Motion for Summary Judgment. As set forth in greater detail in the accompanying Statement of Uncontested Facts as well as the accompanying Memorandum of Law and Facts (and Exhibits A through M attached thereto), Portabull moves for the following relief:

1. Summary judgment that the Accused Products do not infringe the sole claim of U.S. Patent No. 10,232,782 as construed by this Court.
2. Summary judgment that U.S. Patent No. 10,232,782 is unenforceable due to the equitable doctrine of unclean hands.
3. Summary judgment that the tank design offered for sale by H&H Welding Inc. to Portabull in June of 2013 qualifies as prior art to U.S. Patent No. 10,232,782.

Portabull also provides as part of the accompanying memorandum its *Daubert* type motions as it relates to certain opinions of Plaintiffs’ experts; Portabull requests exclusion of those expert opinions as detailed in the accompanying memorandum.

Dated: October 15, 2021

Respectfully submitted,

s/ Benjamin E. Weed
Benjamin E. Weed (*pro hac vice*)
Erik J. Halverson (*pro hac vice*)
K&L Gates LLP
70 W. Madison St.
Suite 3300
Chicago, IL 60602
Phone: 312-372-1121
benjamin.weed@klgates.com
erik.halverson@klgates.com

Patrick H. Zachary (MSB #6674)
Vicki R. Leggett (MSB #1187)
Zachary & Leggett, PLLC
211 S. 29th Avenue, Suite 100
P.O. Box 15848
Hattiesburg, MS 39402
Telephone: (601) 264-0300
Facsimile: (601) 264-0311
Pat@zandllaw.com
vleggett@zandllaw.com

*Attorneys for Defendant
Portabull Fuel Service, LLC*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 15, 2021, I electronically transmitted the foregoing to the Clerk of the Court using the CM/ECF system for filing and transmittal to the CM/ECF registrants.

s/ Benjamin E. Weed
Benjamin E. Weed